

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GEORGE RICHARDS,	§	
	§	No. 366, 2005
Defendant Below,	§	
Appellant,	§	Court Below–Superior
	§	Court of the State of Delaware,
v.	§	in and for Kent County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0412018618
Appellee.	§	

Submitted: December 7, 2005

Decided: February 7, 2006

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

ORDER

This 7th day of February 2006, upon consideration of the appellant’s brief filed pursuant to Supreme Court Rule 26(c), his attorney’s motion to withdraw, and the State’s response thereto, it appears to the Court that:

(1) In March 2005, George Richards pleaded guilty to Driving Under the Influence. The Superior Court sentenced him to eighteen months at Level V imprisonment suspended after sixty days and followed by one year at Level III probation. In July 2005, the Superior Court found Richards guilty of violation of probation (VOP) and sentenced him to sixteen months at Level V

suspended upon successful completion of the Greentree Program for one year at Level III probation.¹ This appeal followed.

(2) On appeal, Richards' counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold. First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal.² Second, the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.³

(3) Richards' counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. By letter, counsel informed Richards of the provisions of Rule 26(c) and provided him

¹The Superior Court record reflects that Richards was also adjudged guilty of VOP in *State v. Richards*, Cr. ID No. 0404014670 and was sentenced to one year at Level V suspended for one year of probation concurrent to the probation that was imposed in the case that is on appeal. Moreover, Richards was discharged as unimproved from probation in *State v. Richards*, Cr. ID No. 0407005817.

²*Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

³*Id.*

with a copy of the motion to withdraw and the accompanying brief. Richards was also informed of his right to supplement his counsel's presentation. Richards did not submit any points for this Court to consider. The State has responded to the position taken by Richards' counsel and has moved to affirm the Superior Court's judgment.

(4) This Court has reviewed the record carefully and has concluded that Richards' appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Richards' counsel made a conscientious effort to examine the record and the law and properly determined that Richards could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Carolyn Berger
Justice